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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,599	07/18/2003	Willard E. Ballard		4304
7590	05/14/2004		EXAMINER	
Donald W. Spurrell P.O. Box 970 Johnson City, TN 37605			ALIE, GHASSEM	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 05/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/622,599	BALLARD, WILLARD E.
	Examiner Ghassem Alie	Art Unit 3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on the filing date of the application.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

***Claim Objections***

1. Claim 3, 5, and 7 are objected to because of the following informalities: “thru” should be --through --. See claims 3, 7, line 2 and claim 5, line 3. In addition, “a saw base” should be --the saw base--. See claim 9, line5.

***Specification***

2. The disclosure is objected to because of the following informalities: “thru” should be --through-- in the entire specification. In addition, the “said” should be --the-- in the entire summary of the Invention. Furthermore, --the-- has to be added before the names or features ,which have previously mentioned, in the entire specification. For example, “from top surface 12” should be --from the top surface 12--. See page 4, line 8 in the specification.

3. The specification is objected to under 37 CFR 1.71 for not disclosing (a) fails to teach how the supporting structure is also an elongated workpiece. The support structure 43 is not the same as the elongated workpiece 43. See Fig. 1 and page 4, fourth paragraph in the specification.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 2 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which is not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the

invention. Regarding claim 2, the disclosure fails to teach that how the supporting structure is also an elongated workpiece.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-4, 6-8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Markopoulos (2003/0233926). Regarding claim 1, Markopoulos teaches a guide device for hand held circular saws 1602 including a platform 12 having a top portion with a substantially planar top surface, opposed sides, and opposed front and back ends. Markopoulos also teaches that the platform 12 has a longitudinal dimension and a lateral dimension, and a first guide shoulder means on the platform 12. The first shoulder means is defined by the section of the platform with has the slot 50. Markopoulos also teaches that the first shoulder means extends downwardly from the top surface along the longitudinal dimension. Markopoulos also teaches a pair of laterally spaced cooperating elevation flanges 136 extending downwardly from the top portion. Markopoulos also teaches mounting means 160 on the flanges 136 for affixing the device to a supporting structure 138 at a prescribed height thereabove and at a prescribed angle to an upper surface thereof. The mounting means 160 is affixing the guide device to the support member 138 at angle zero relative to the top surface. Markopoulos also teaches that the first shoulder means is adapted to engage second

shoulder means 1636 on a base 1610 of a saw for guiding the saw 1602 in a straight line across the supporting structure 138. See Figs. 7b, 20-23 and page 3, paragraphs 55-57 and page 7, paragraph 88 in Makropoulos.

Regarding claim 2, as best understood, Markopoulos teaches everything above including that the supporting structure 138 is an elongated workpiece 292. The workpiece also is part of the supporting structure 138. See Fig. 23 in Markopoulos.

Regarding claim 3, Markopoulos teaches everything above including that the prescribed height provides a vertical opening between the top portion and the supporting structure 138 through which an elongated workpiece 292 is adapted to slide and be supported by the supporting structure 138. See Fig. 23 in Makropoulos. The workpiece 292 slides between the supporting member 138 and the guide device 12 before it get clamped to the supporting member.

Regarding claim 4, Makropoulos teaches everything above including that at least one of the flanges 36 is adjustable on the top portion laterally thereof to accommodate workpieces 292 or supporting structures 138 of different widths.

Regarding claim 6, Makropoulos teaches everything above including that the surface portion of the flanges 136 provided with slide guide for assisting in keeping workpiece 292 properly oriented with respect to first guide shoulder means. The slide portion 166 of the flange 136 is defined as the inside surface portion of the flange 136 that maintain the orientation of the workpiece 292 relative to the first shoulder means. See Fig. 23 in Makropoulos.

Regarding claim 7, Makropoulos teaches everything above including that the first shoulder means includes at least one slot 50 formed laterally through the upper surface. See Fig. 23 in Makropoulos.

Regarding claim 8, Makropoulos teaches everything above including that the first guide shoulder means is provided with an edge 102 of the back of the platform means 12. See Fig. 23 in Makropoulos.

Regarding claim 10, Makropoulos teaches everything above including that the mounting means 160 includes clamping means for clamping the flanges 136 against opposing side edge portion for of the supporting member 136. The side edge portion of the supporting member 136 defined by the two horizontal sides of the supporting member on each end of the supporting member.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Makropoulos in view of Greco (3,344,824). Regarding claim 5, Makropoulos teaches everything noted above except that the mounting means of the flanges include a height adjustment slot oriented in each flange substantially normal to the plane of the top surface and fastener means mounted through the slots and adapted to tighten the flanges against edge portions of the supporting structure. However, Greco teaches mounting means 22 of flanges 21, 22

including a height adjustment slot oriented in each flange 22 substantially normal to the plane of the top surface and fastener means mounted through the slots and adapted to tighten the flanges 21, 22 against edge portions of a supporting member 23. The column 21 and the tubular socket define a flange. The slots within the cylindrical portion of the flange 12, 22, define the height adjustment slots. A wing screw tightens the flange 12, 22 to the side portion of the supporting member 23. See Figs. 1-3 in Greco. It would have been obvious to a person of ordinary skill in the art to replace the flanges of Makropoulos' guide device with the flanges as taught by Greco, since the Greco flanges functions the same as Acropolis' flanges. In addition, Official notice is taken that the use of the height adjustment means having a height adjustment slot and a fastener for fastening the height adjustment means to a supporting means or a workpiece is well known in the art.

10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Makropoulos. Regarding claim 9, Makropoulos teaches everything noted above including a slide member 74 is provided and dimensioned in cross-section to accurately fit into the slot 50. See Fig. 23 in Makropoulos. Makropoulos does not teach cooperating elements of fastening means are provided on the slide member and a base of the hand saw circular saw for securing the slide member to the saw base along the lateral guide edge of the base. However, in another embodiment, Makropoulos teaches, in another embodiment, cooperating elements of fastening means 1462, 1438 are provided on the slide member 74 and a base 1416 of the hand held circular saw 1402 for securing the slide member 74 to the saw base 1416 along the lateral guide edge of the base 1416. See Figs. 15a 17 in Makropoulos. It would have been obvious to a person of ordinary skill in the art to provide Makropoulos' guide device with the

cooperating elements of fastening means as taught by Makropoulos, in another embodiment, in order to fasten the base of the hand held saw to the slide member at a predetermined position with respect to the guide assembly.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1, 2, 4, and 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mecsey (4,355,557) in view of Makropoulos or Girardin. Regarding claim 1, Regarding claim 1, Mecsey teaches a guide device 100 for hand held circular saws including a platform 125 having a top portion with a substantially planar top surface, opposed sides, and opposed front and back ends. Mecsey also teaches that the platform 105, 106, 123-125 has a longitudinal dimension and a lateral dimension, and a first guide shoulder means on the platform 105, 106, 123-125. The flat tables 123-125 and the c-shaped brackets 105, 106 define the platform. The first shoulder means is defined by u-shaped recess of the platform 125. Mecsey also teaches that the first shoulder means extends downwardly from the top surface along the longitudinal dimension. Mecsey also teaches a pair of laterally spaced cooperating elevation flanges 104, 108 extending downwardly from the top portion. Mecsey also teaches mounting means 112 on the flanges 108 for affixing the device to a supporting structure 102 at a prescribed height thereabove and at a prescribed angle to an upper surface thereof. The mounting means 112 is affixing the guide the platform 105, 106, 123-125 to the

support member 102 at a prescribed angle and prescribed height. The height of the platform changes relative to the supporting member 102 when the platform is tilted or angled relative to the support member. See Fig. 13-16 and col. 4, lines 3-66 in Mecsey. Mecsey does not teach that the first shoulder means extends downwardly from the top surface along the longitudinal dimension. Mecsey also does not teach the first shoulder means is adapted to engage second shoulder means on a base of a saw for guiding the saw in a straight line across the supporting structure. However, the use of the track having shoulder means for sliding the base of the hand held saw in a straight line across the supporting structure is well known in the art such as taught by Makropoulos and Girardin. Makropoulos teaches a platform 12 has a longitudinal dimension and a lateral dimension, and a first guide shoulder means on the platform 12. The first shoulder means is defined by the section of the platform with has the slot 50. Makarpoulos also teaches that the first shoulder means extends downwardly from the top surface along the longitudinal dimension. Makropoulos also teaches that the first shoulder means is adapted to engage second shoulder means 1636 on a base 1610 of a saw for guiding the saw 1602 in a straight line across the supporting structure 138. See Figs. 7b, 20-23 and page 3, paragraphs 55-57 and page 7, paragraph 88 in Makropoulos. Girardin also teaches a track 16 (or a platform) for sliding a base 19 of the hand held saw across the support member 30. Girardin also teaches that the platform 16 has a first shoulder means 50, 53 extending downwardly from a top surface 52. The platform 16 has a slot that is extended downwardly from the top surface 52 of the platform 16. Girardin also teaches that the first shoulder means 50, 53 is adapted to engage second shoulder means on a base 19 of a saw for guiding the saw in a straight line across the supporting structure 30. See Figs. 1-3 and col. 2,

lines 52-68 and col. 3, lines 1-59 in Girardin. It would have been obvious to a person of ordinary skill in the art to replace sliding means Mecsey's guiding device with the sliding means as taught by Makropoulos or Girardin, since the sliding track as taught by Makropoulos or Girardin functions the same as the sliding mechanism of the Mecsey.

Regarding claim 2, as best understood, Mecsey teaches everything above including that the supporting structure 102 is an elongated workpiece. The workpiece is placed on the supporting structure and it is part of the supporting structure. See Fig. 16 in Mecsey.

Regarding claim 4, Mecsey teaches everything above including that at least one of the flanges 108 is adjustable on the top portion laterally thereof to accommodate workpieces or supporting structures of different widths. See Fig. 16 in Mecsey.

Regarding claim 6, Mecsey as modified above teaches everything above including that the surface portion of the flanges 108 provided with slide guides for assisting in keeping workpiece properly oriented with respect to first guide shoulder means as taught by Makropoulos or Girardin. See Fig. 16 in Mecsey.

Regarding claim 7, Mecsey as modified by Makropoulos teaches everything above including that the first shoulder means includes at least one slot 50 formed laterally through the upper surface. See Fig. 23 in Maropoulos.

Regarding claim 8, Mecsey as modified by Makropoulos teaches everything above including that the first guide shoulder means is provided with an edge 102 of the back of the platform means 12. See Fig. 23 in Makropoulos.

Regarding claim 9, Mecsey as modified by Girardin teaches everything noted above including a slide member 18 is provided and dimensioned in cross-section to accurately fit

into the slot 50. Mecsey as modified by Girardin also teaches cooperating elements of fastening means 64, 66 are provided on the slide member and a base 19 of the hand saw circular saw for securing the slide member 18 to the saw base 19 along the lateral guide edge of the base 19. See Figs. 1-3 in Girardin.

Regarding claim 10, Mecsey as teaches everything above including that the mounting means includes clamping means for clamping the flanges 108 against opposing side edge portion for of the supporting member 102. The mounting means also includes a screw that clamp the flange 108 against the side edge portion of the supporting member 102. The side edge portion of the supporting means includes the support 104. See Fig. 15 in Mecsey.

13. Claim 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mecsey in view of Makropoulos or Girardin, as applied to claim 1, and in further view of Pyle (4,576,076). Regarding claim 3, Mecsey teaches everything above including that an elongated workpiece is adapted to slide between the top portion and the supporting structure 102. See Fig. 16 in Mecsey. Mecey as modified by Makropoulos or Girardin does not teach that the prescribed height provides a vertical opening between the top portion and the supporting structure. However, the use of vertical slot for adjusting height and angle of the guiding device of a hand held tool is well known in the art such as taught by Pyle. Pyle teaches a flange 45 having a vertical slot 46 between the top portion 45 of a guiding device and a supporting member. See Figs. 1-3 and col. 2, lines 3-68 in Pyle. It would have been obvious to a person of ordinary skill in the art to replace the flange of Mecsey's guiding device, as modified by Makropoulos or Girardin, with the flange of Pyle in order to adjust efficiently the height and angle of the platform of the guide device.

Regarding claim 5, Mecsey as modified above teaches everything noted above including that the mounting means of the flanges include a height adjustment slot 46, as taught by Pyle, oriented in each flange substantially normal to the plane of the top surface and fastener means mounted through the slots and adapted to tighten the flanges against edge portions of the supporting structure. See Figs. 2 and 3 in Pyle.

***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- Butler (2,599,893), Brickner et al. (Des. 310,375 and 4,452,117), and Pyle (6,212,983) teach a guiding device for a hand held circular saw including a flange having a vertical slot for adjusting the height and angle of a base of the circular saw.
- Eaves (4,552,192), Cook (4,519,280), Wilson (4,078,309), HARTMANN (2002/0000046), Ketch (5,472,029), Miller (3,602,987), Larson (4,202,233), Buckalew (4,741,865), Sheps et al. (4,335,512), Bliss (4,522,098), and Bradbury et al. (5,035,061) a guiding device for a hand held circular saw including a first guide shoulder means having a slot and a second guide shoulder means for the base of the circular saw.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (703) 305-4981. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (703) 305-1082. The fax phone numbers for the

organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9302 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

GA/ga

May 10, 2004



**Allan N. Shoap**  
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